



This document is scheduled to be published in the Federal Register on 07/10/2012 and available online at <http://federalregister.gov/a/2012-16775>, and on FDsys.gov

Billing Code: 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2012-N129]

[FXES11130200000F5-123-FF02ENEH00]

Draft Safe Harbor Agreement and Application for an Enhancement of Survival Permit for the Tres Rios Project

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: The City of Phoenix (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit (TE75475A-0) pursuant to the Endangered Species Act (Act), as amended. The requested permit, which is for a period of 50 years, would authorize incidental take of Yuma clapper rail (*Rallus longirostris yumanensis*) and southwestern willow flycatcher (*Empidonax traillii extimus*) as a result of operation and maintenance activities associated with the

Tres Rios Project, and a potential return to baseline conditions. We invite the public to review and comment on the permit application and the associated draft Safe Harbor Agreement (SHA).

DATES: *Comment Period:* To ensure consideration of your written comments, they must be received on or before close of business (4:30 p.m. CST) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD-ROM of the documents.

- *Email:* Mike_Martinez@fws.gov. Include “Arizona Ecological Services Field Office draft Tres Rios SHA” in the subject line of the message.
- *Fax:* Attn: Field Supervisor, 602-242-2513.
- *U.S. Mail:* 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021-4951.
- *In-Person Drop-off, Viewing, or Pickup:* Call 602-242-0210 to make an appointment (necessary for view/pickup only) during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Martinez, at the U.S. Fish and Wildlife Service, by mail at the address under **ADDRESSES**, by phone at 602-242-0210 x224, or by email at *Mike_Martinez@fws.gov*.

SUPPLEMENTARY INFORMATION: Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 et seq.). Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners, through enhancement of survival permits under section 10(a)(1)(A) of the Act, that they will not be subjected to increased property use restrictions as a result of increased target species abundance due to their efforts to improve conditions for listed species on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

The Applicant plans to conduct operation and maintenance activities associated with the Tres Rios Project, including, but not limited to, management of vegetation, roads, trails, water delivery systems, flood control capacity, and storm water facilities. The Tres Rios Project is a cooperative project between the Applicant and the U.S. Army Corps of Engineers to enhance and maintain 927 acres of Sonoran Desert and riparian biotic communities within and adjacent to the Salt River Channel from

approximately 91st Avenue to the confluence with the Gila River, and within the Gila River Channel, from approximately the confluence with the Salt River to El Mirage Road, Phoenix, Arizona. The project area also includes the Hayfield Wetlands to the east.

The draft SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.; NEPA), based upon completion of a NEPA screening form. Section 9 of the Act prohibits the "taking" of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations (50 CFR 17.22), and NEPA and its implementing regulations (40 CFR 1506.6).

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authorities

We provide this notice pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 CFR 4371 *et seq.*).

Date: June 4, 2012

Benjamin N. Tuggle

Regional Director, Southwest Region,

Albuquerque, New Mexico

[FR Doc. 2012-16775 Filed 07/09/2012 at 8:45 am; Publication Date: 07/10/2012]